

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Senator John McCain

)
) MURs 5712 and 5799
)

AMENDED CERTIFICATION

I, Darlene Harris, recording secretary of the Federal Election Commission executive session, do hereby certify that on March 18, 2009, the Commission took the following actions in the above-captioned matter:

1. Failed by a vote of 3-3 to pass a motion to:

- a) Find probable cause to believe that Senator John McCain violated 2 U.S.C. § 441i(e)(1)(B) and 11 CFR § 300.62.
- b) Approve the conciliation agreement, as recommended in General Counsel's Report #2 dated December 11, 2007.
- c) Approve the appropriate letter.

Commissioners Bauerly, Walther, and Weintraub voted affirmatively for the motion. Commissioners Hunter, McGahn II, and Petersen dissented.

2. Decided by a vote of 4-2 to:

Dismiss MURs 5712 and 5799 on the basis of prosecutorial discretion as outlined in Heckler v. Chaney, 470 U.S. 821 (1985).

Commissioners Hunter, McGahn II, Petersen, and Walther voted affirmatively for the decision. Commissioners Bauerly and Weintraub dissented.

3. Decided by a vote of 6-0 to:

Close the files in MURs 5712 and 5799 and send the appropriate letters.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

March 31, 2009
Date

Attest:
Darlene Harris
Darlene Harris
Deputy Secretary of the Commission

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